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**Health Care & Wellness Committee**

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**HB 2652**

**Brief Description:** Regulating tanning facilities.

**Sponsors:** Representatives Darneille, Dunshee, Driscoll, Green, Dickerson and Orwall.

**Brief Summary of Bill**

- Licenses tanning facilities.
- Subjects tanning facilities to requirements relating to operations, sanitation, advertising, and access to minors.

**Hearing Date:** 1/19/10

**Staff:** Jim Morishima (786-7191).

**Background:**

Tanning occurs when the human body produces melanin, which darkens the skin. Tanning is caused by exposure to ultraviolet (UV) radiation from the sun or artificial UV radiation. Tanning beds or booths are equipment that utilize tanning lamps to expose the skin to UV radiation, which induces tanning.

At least 35 states have statewide statutes or rules regulating tanning facilities. These regulations include minimum standards for tanning facilities, restrictions on access for minors, and the licensing, permitting, or registration of tanning facilities. Tanning facilities are currently not licensed in Washington.

**Summary of Bill:**

I. Licensure of Tanning Facilities.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Beginning on January 1, 2011, all tanning facilities in the state must be licensed by the Department of Health (DOH). A person seeking licensure must submit an application including the name, address, and telephone number of the facility and the owner; information on each of the tanning devices in the facility; a certification the applicant has read and understands the statutes relating to tanning; a copy of the facility's operating procedures; and any other information required by the DOH. The DOH must grant an applicant's license if it determines that the applicant meets all applicable requirements.

A licensee must place the license in a location clearly visible to customers. Licenses expire annually and are not transferable from one facility to another.

The fee for licensure and renewal must be no greater than \$500 per salon plus \$100 per additional bed over 10 and may be no greater than the amount necessary to defray the costs of the tanning facility licensing program.

## II. Tanning Regulations.

Licensed tanning facilities are subject to a variety of regulations, including regulations relating to tanning equipment, tanning operators, injuries, advertising, disclosures to customers, and access for minors.

### A. Tanning Equipment.

All tanning equipment in a tanning facility must have a control enabling users to manually shut off the equipment without unplugging the equipment or touching the tanning lamps. Bulbs in tanning lamps must be replaced at intervals recommended by the manufacturer and with bulbs intended for use in the equipment (or their equivalent). The facility must maintain records of bulb replacement that are accessible to customers and post dates of bulb replacement on the tanning devices.

A tanning facility must cleanse the contact surfaces of tanning equipment between uses. After cleansing the equipment, the facility must place a visible sign on the bed or booth indicating that it has been cleansed. The facility must also properly sanitize bathrooms and dressing rooms and provide customers with clean towels and washcloths. The DOH must adopt rules relating to tanning facility sanitization that meet the standards for cosmetologists, barbers, and manicurists.

### B. Tanning Operators.

A tanning operator must be present whenever tanning equipment is being operated in the facility. The operator must be within hearing distance of the equipment or be able to reach the customer within 30 seconds if summoned by intercom or buzzer. An operator must be able to recognize the customer's skin type based on the "Fitzpatrick Scale," which classifies skin type based on the skin's reaction to the first 10 to 45 minutes of sun exposure after the winter season. An operator must limit the customer's tanning session to the duration and frequency recommended by the tanning equipment's manufacturer and must instruct each customer in the following:

- proper body positioning;
- the location of the safety railing, if any;
- the operation of the control to manually shut off the equipment; and

- the maximum time of exposure.

### C. Injury Reporting.

A tanning facility must report any tanning injury to the DOH by the end of the next working day after the day of the injury or the day when the facility became aware of the injury. The report must contain the name of the customer, the name and location of the tanning facility, the nature of the injury, the name and address of the health care provider, if any, and any other relevant information. The DOH must forward the injury reports to the United States Food and Drug Administration.

### D. Advertising.

A tanning facility may not advertise or distribute promotional materials that claim that using a tanning device is safe or free from risk or that the device will result in medical or health benefits. The DOH must conduct a public awareness campaign on the dangers of indoor tanning.

### E. Disclosures to Customers.

A tanning facility must post a warning sign in a location easily visible to persons entering the facility. The DOH must adopt a model warning sign and post it on the DOH web site in a form that is easily downloaded and printed. The warning sign must contain the following provisions:

*"WARNING: ULTRAVIOLET RADIATION*

*Follow the manufacturer's instructions for use of this device.*

*Avoid overexposure. As with natural sunlight, overexposure can cause eye and skin injury and allergic reactions. Repeated exposure to ultraviolet radiation may cause chronic sun damage characterized by wrinkling, dryness, fragility, bruising of the skin, and skin cancer.*

*Do not sunbathe before or after exposure to ultraviolet radiation from sunlamps.*

*Wear protective eyewear. Failure to use protective eyewear may result in severe burns or permanent injury to the eyes.*

*Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Women who are pregnant or are taking oral contraceptives who use this product may develop discolored skin.*

*A customer may contact the department of health to report an alleged injury regarding this tanning facility."*

A tanning facility must also require each customer to sign a warning statement prior to initial exposure and prior to renewals of contracts. The warning statement must include the following provisions:

*"Failure to use the eye protection provided to the customer by the tanning facility may result in damage to the eyes.*

*Overexposure to ultraviolet light causes burns.*

*Repeated exposure to ultraviolet light may result in premature aging of the skin and skin cancer.*

*Abnormal skin sensitivity or burning may be caused by reactions of ultraviolet light to certain:*

*Food;  
Cosmetics; or  
Medications, including:  
Tranquilizers;  
Diuretics;  
Antibiotics;  
High blood pressure medications; or  
Birth control pills.*

*Any person taking a prescription or over-the-counter drug should consult a physician prior to using a tanning device.*

*A person with skin that always burns easily and never tans should avoid a tanning device.*

*A person with a personal or family medical history of skin cancer should avoid a tanning device."*

#### F. Access for Minors

A tanning facility may not allow a person under the age of 18 to use a tanning device unless the person has a prescription from a physician.

#### III. Enforcement.

A tanning facility must allow the DOH to have access to the facility at reasonable times for inspection. When inspecting a tanning facility, the DOH must review the following:

- the construction and operation of the facility;
- any required records and training documentation;
- operator understanding and competency; and
- any other areas the DOH deems appropriate.

The DOH may deny, suspend, or revoke a tanning license for any of the following:

- submitting false statements;
- operating a tanning facility in a manner that threatens the public health or safety;
- failing to allow the DOH to have access for inspections or investigations;
- failing to pay licensing or renewal fees; and
- any other violations of tanning regulations.

In addition to license denial, suspension, or revocation, the DOH may also assess civil penalties of up to \$5,000 per violation or require a corrective action plan. A person who operates a tanning device in violations of the requirements of the act is also guilty of a misdemeanor.

In cases involving the public health, safety, or welfare, the DOH must take immediate action to suspend or revoke a facility's license. In all other cases, the DOH must provide written notice to the tanning facility of the facts or conduct warranting the suspension or revocation and provide the facility with an opportunity to demonstrate or achieve compliance.

#### IV. Exemptions.

The following are exempt from regulation:

- devices for personal use in a residence;
- devices intended for purposes other than the irradiation of the human skin; and
- phototherapy or UV radiation devices providing therapeutic benefits to patients receiving medically-supervised treatment for medical conditions from a health care professional acting within his or her scope of practice.

**Appropriation:** None.

**Fiscal Note:** Requested 1/08/2010

**Effective Date:** Section 14, which requires the DOH to adopt a model warning sign by rule, takes effect ninety days after adjournment of session in which bill is passed. The remainder of the act takes effect on January 1, 2011.